

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

TYLER TECHNOLOGIES, INC.,

PLAINTIFF,

v.

LEXUR ENTERPRISES INC.,
ROBERT FRY, JIMMY DAVIS, JOE
THORNSBERRY, AND JOHN DOES
1-100

DEFENDANTS.

CAUSE NO. 4:20-CV-00173-TWP-DML

**DEFENDANT ROBERT FRY'S MOTION FOR EXTENSION
OF TIME TO RESPOND TO DISCOVERY**

Defendant Robert Fry ("Fry"), by counsel and pursuant to S.D. Ind. L.R. 6-1(c), hereby submits this Motion for Extension of Time to Respond to Discovery. In support, Fry states:

1. On August 10, 2020, Plaintiff, Tyler Technologies, Inc. ("Tyler"), filed its Complaint alleging violations of federal and state antitrust law, as well as state law claims for tortious interference with contract, tortious interference with business relationships, and civil conspiracy against Lexur Enterprises Inc. ("Lexur") and Lexur's Chief Financial Officer, Fry. [DN 1.]

2. On September 30, 2020, Lexur and Fry filed motions to dismiss Plaintiff's Complaint along with accompanying briefs. [DN 29–32.] If successful, Fry's motion to dismiss would dismiss all claims against Fry. This Court has yet to rule on Fry's motion.

3. On February 10, 2021, Tyler served its First Set of Requests for Production to Fry, seeking numerous documents concerning Lexur's business plans, strategies, and correspondence with clients.

4. Pursuant to Fed. R. Civ. Pr. 34(b)(2)(A), Fry has thirty (30) days, or until March 12, 2021, to respond to Tyler's First Set of Requests for Production.

5. Fry's pending motion to dismiss would eliminate all claims against him by Tyler. Accordingly, Fry filed a motion to join Lexur's motion to stay discovery pending the resolution of the motions to dismiss, asserting that Tyler's discovery requests present an undue burden that could be avoided should this Court dismiss all claims against Fry. [DN 72.] This Court has yet to rule on Lexur's motion to stay discovery or Fry's motion to join the motion to stay discovery.

6. Because the motion to stay discovery is still pending, Fry seeks to invoke the twenty-eight-day extension of time to respond to Tyler's discovery requests pursuant to Local Rule 6-1.

7. Fry has good cause to seek an extension. Requiring Fry to respond to Tyler's First Request for Production would (1) interfere with the essential purpose of Lexur's motion to stay discovery, which was joined by Fry and (2) would create an undue burden on Fry for the reasons set forth in Lexur's brief in support of its motion to stay discovery, also joined by Fry.¹

¹ Fry incorporates by reference herein the arguments made in Lexur's brief in support of its motion to stay discovery, as those arguments are further explained in Fry's motion to join the motion to stay discovery [DN 68–72].

8. This Court should therefore grant Fry a twenty-eight day extension of time up to April 10, 2021, to respond to Tyler's First Set of Requests for Production while it considers Lexur's motion to stay discovery and Fry's motion to join the motion to stay discovery.

9. Subsection (a) of Local Rule 6-1 does not apply because, following consultation between counsel, Tyler's counsel believes that the requested extension will interfere with the current deadline of April 30, 2021, for Tyler to disclose any expert witnesses it wishes to use and the June 10, 2021 fact discovery deadline as well.

10. Tyler does not object to Fry's request for an initial 28-day extension of time, subject to the understanding that such an extension will require amendment to the Case Management Plan and certain of its deadlines, including the expert disclosure and fact discovery deadlines.

WHEREFORE, Defendant Robert Fry, by counsel, respectfully requests that this Court enter an Order granting Fry an extension of time up to and including April 10, 2021, to respond to Tyler's First Set of Requests for Production.

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